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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON, SEATTLE

OMNI INNOVATIONS, LLC, a Washington Limited Liability company; and JAMES S. GORDON, JR., a married individual,

Plaintiffs,

v.

PUBLISHERS CLEARING HOUSE, INC., a New York corporation; ANDREW C. GOLDBERG and JANE DOE GOLDBERG, individually and as part of their marital community; and JOHN DOES, I-X,

Defendants,

NO. C06-1348MAT

COMPLAINT

PARTIES, JURISDICTION, VENUE

1. Plaintiff OMNI INNOVATIONS, LLC, (hereinafter "OMNI") is a Washington limited liability company duly licensed and registered with the State of Washington, with its principal place of business in Franklin County, Washington.

2. Plaintiff JAMES S. GORDON, JR. (hereinafter "GORDON") is a married individual residing in Franklin County, Washington.

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06-CV-01348-LTR

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3. On information and belief, plaintiffs allege that Defendant **PUBLISHERS CLEARING HOUSE, INC., ("PCH") is a New York corporation,** with its principal place of business in the state of New York.

4. On information and belief, ANDREW C. GOLDBERG and JANE DOE GOLDBERG, ("Goldberg") is an officer, director, and/or majority shareholder of PCH, and as such controls its policies, activities, and practices, including those alleged herein on behalf of those defendants. All acts and practices undertaken by Goldberg on behalf of corporate defendants are and were for the benefit of their marital community. Goldberg resides in the State of New York and transacts or has transacted business in the State of Washington and in the Western District of Washington.

5. Jurisdiction is proper pursuant to 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1332 (diversity).

6. This Court has supplemental jurisdiction of state law claims pursuant to U.S.C. § 1367.

7. Venue is proper pursuant to 28 U.S.C. §1391.

8. From at least August 2003 through May 2005, Plaintiff GORDON provided and enabled computer access for multiple users to a computer server that provides access to the Internet.

9. From and after May 2005, Plaintiff OMNI provided and enabled computer access for multiple users to a computer server that provides access to the Internet.

10. The domain names served by Plaintiffs or one of Plaintiffs include: anthonycentral.com, chiefmusician.net, ehahome.com, itdidnotendright.com, jammtomm.com, jaycelia.com, celiajay.com, jaykaysplace.com, rcw19190020.com, and gordonworks.com (collectively the "Domains" and individually and generically a "Domain").

11. At all times material hereto, for the Domains and each of them, the information that all e-mail addresses at each Domain (the "Recipient Addresses") belong to

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Washington residents was and is available upon request from the registrant of each Domain, each registrant being a Washington resident and each Domain being registered with a Washington address.

12. During the time period of approximately August 2003 through May 2006, Plaintiffs received at the Domains electronic-mail messages (collectively the "E-mails" or individually and generically as an "Email").

13. The E-mails, and each of them, were received by Plaintiffs' server serving the Domains.

14. Each of the E-mails misrepresents or obscures information in identifying the point of origin or the transmission path thereof, and contains header information that is materially false or materially misleading. The misrepresentations include without limitation: IP address and host name information do not match, or are missing or false, in the "from" and "by" tokens in the Received header field; and dates and times of transmission are deleted or obscured.

15. On information and belief, Plaintiffs allege that some of the E-mails used the Internet domain name of a third party or third parties without permission of that third party or those third parties.

16. Defendant initiated the transmission of the E-mails, and each of them. In the alternative, Defendant conspired or otherwise acted in collusion with another or others or assisted another or others to transmit the E-mails, and each of them.

17. At all times material hereto, Defendants knew or had reason to know that the Recipient Addresses, and each of them, were and are held by a Washington resident.

FIRST CAUSE OF ACTION – CAN-SPAM ACT

15 U.S.C. §7701 et seq.

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18. On the basis of the facts set forth hereinabove, Defendants initiated the transmission of the E-mails, and each of them, to a protected computer in violation of 15 U.S.C. §7704(a), causing damage to Plaintiffs GORDON and OMNI as the providers of the Internet access service receiving each such E-mail in the amount of $100 for each such E-mail, as provided in 15 U.S.C. §7706 (g) (3).

19. Defendants did willfully and knowingly so act in violation of the provisions of 15 U.S.C. §7701 et seq.

SECOND CAUSE OF ACTION – CEMA

RCW 19.190.010 - .070

20. On the basis of the facts set forth hereinabove, Defendants initiated, conspired with another to initiate, or assisted the transmission of the E-mails, and each of them, in violation of RCW 19.190.020, causing damage to Plaintiffs GORDON and OMNI as the interactive computer service receiving each such E-mail in the amount of $1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

THIRD CAUSE OF ACTION – CONSUMER PROTECTION ACT

Ch. 19.86 RCW

21. On the basis of the facts set forth hereinabove, Defendants initiated the E-mails, and each of them, in violation of RCW 19.190.030 and Chapter 19.86 RCW, causing damage to Plaintiffs GORDON and OMNI as the interactive computer service receiving each such E-mail in the amount of $1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

REQUEST FOR RELIEF

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Plaintiff respectfully requests the following relief:

1. Entry of a Judgment against the Defendant in the amount of $1,100 per E-mail (a total of $1,007,600), plus such other and further damages as may be proved at trial, plus treble damages to the extent permitted by Chapter 19.86 RCW and to the extent permitted by 15 U.S.C. §7706 (g) (3) (C), plus prejudgment and post-judgment interest at the highest rate permitted by law, plus cost of suit and reasonable attorney fees pursuant to Chapter 19.86 RCW and 15 U.S.C. §7706 (g) (4);

2. Entry of a permanent injunction against the Defendant prohibiting the Defendant from sending or causing to be sent electronic mail messages of any kind or nature to e-mail addresses at the Domains, hereinabove.

3. Such other and further relief as the Court deems just and equitable in the premises.

RESPECTFULLY SUBMITTED this 12th day of September, 2006.

MERKLE SIEGEL & FRIEDRICHSEN, P.C.

/S/ Robert J. Siegel
Robert J. Siegel, WSBA #17312
Attorney for Plaintiffs

DOUGLAS E. MCKINLEY, JR
Attorney at Law

/S/ Douglas E. McKinley, Jr.
Douglas E. McKinley, Jr., WSBA#20806
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